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PATENT
Atty. Dkt. No. SEDN/049

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Armstrong et al.

Serial No.: 09/447,472

Confirmation No.: 3863

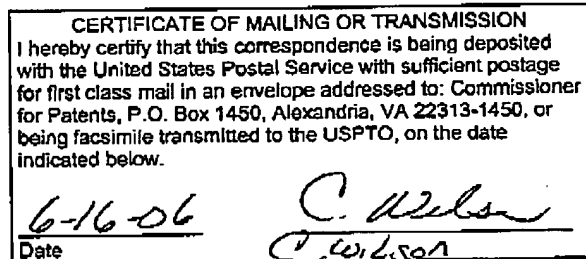
Filed: November 23, 1999

For: METHOD AND APPARATUS FOR
HIERARCHICAL DISTRIBUTION OF
VIDEO CONTENT FOR AN
INTERACTIVE INFORMATION
DISTRIBUTION SYSTEM

§ Case Number: SEDN/049
§
§ Group Art Unit: 2623
§
§ Examiner: Lambrecht, Christopher
M.

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MAIL STOP – Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



Dear Sir or Madam:

REPLY BRIEF

Appellants submit this Reply Brief to the Board of Patent Appeals and Interferences in response to the Examiner's Answer dated April 17, 2006 in the Appeal of the above-identified application.

The Commissioner is authorized to charge any fees due, including extension of time and excess claim fees, to counsel's Deposit Account No. 20-0782/SEDN/049.

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REMARKS

In Section 10 of The Examiner's Answer (Response to Arguments), the Examiner attempts to provide additional reasoning to support his decision of obviousness with respect to the claims on appeal. Despite the Examiner's answers, Appellant still upholds that the rejection of claims 1-9, 19, and 21-24 as being unpatentable under 35 U.S.C. §103 are improper.

Section A (Summary of Issues Section):

The Examiner asserts, on Page 4 of the Summary of Issues section of his Answer, that Appellants are attempting to show nonobviousness by attacking references individually where the rejections are based on a combination of references. The Examiner further asserts that "[y]et, in the fourth issue, Appellants offer no argument against the combination of references if Hokanson is assumed to teach partitioning of servers." Appellants respectfully disagree.

Appellants respectfully submit that, although Appellants have discussed the Ueno and Hokanson references individually for purposes of describing the teachings of the Ueno and Hokanson references, Appellants have clearly argued the combination of the Ueno and Hokanson references. In the Appeal Brief, Appellants first demonstrate that both Ueno and Hokanson, either alone or in combination, fail to teach or suggest partitioning of servers. Since Ueno fails to teach or suggest partitioning of servers as taught in Appellants' invention, and Hokanson fails to teach or suggest partitioning of servers as taught in Appellants' invention, no conceivable combination of Ueno and Hokanson can teach or suggest partitioning of servers as taught in Appellants' invention.

Furthermore, the Examiner has repeatedly stated (e.g., on Page 2 of the Office Action dated July 13, 2005) that Ueno fails to disclose "said infrequently requested video assets being divided and selectively distributed amongst said secondary partitions of said plurality of servers," as taught in Appellants' independent claims. The Examiner instead cited Hokanson for teaching this limitation of Appellants' invention, in

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combination with portions of Ueno cited by the Examiner for teaching other portions of Appellants' invention, in order to teach Appellants' invention as a whole. However, for at least the reasons discussed in Appellants' Appeal Brief, Appellants maintain that Hokanson fails to teach or suggest that infrequently requested video assets are divided and selectively distributed amongst secondary partitions of the plurality of servers.

As such, Appellants maintain that even if Hokanson, or Ueno in combination with Hokanson, did teach partitioning of servers where each of the servers has primary and secondary partitions (which Appellants maintain that they do not), the combination of Ueno and Hokanson would still fail to teach or suggest "said infrequently requested video assets being divided and selectively distributed amongst said secondary partitions of said plurality of servers," as taught in Appellants' claim 1.

Section A (Response to Third/Fourth Issue Sections):

The Examiner asserts, in the "Response to Third Issue" section of his Answer (Pg. 11), that "[a]s noted above and discussed in detail below with respect to the fourth issue, Ueno teaches selective distribution of content amongst plural servers; Hokanson teaches a manager for doing so in response to subscriber requests (see col. 9, lines 33 – 54)." The Examiner further asserts that "Hokanson teaches distributing infrequently requested assets amongst a server's secondary storage partitions." (Examiner's Answer, Pg. 11, Lines 5-6, Emphasis added).

Appellants respectfully maintain that the combination of Ueno and Hokanson, however, simply does not teach or suggest a manager, coupled to each of said plurality of servers, for routing video assets between servers in response to video asset requests, and for migrating video assets between storage partitions in response to a video asset request rate traversing a threshold rate, wherein the infrequently requested video assets are divided and selectively distributed amongst the secondary partitions of the plurality of servers, as taught in Appellants' invention.

Rather, the combination of Ueno and Hokanson merely teaches a central manager (illustratively, one of the resources management control units taught in Ueno) in communication with a plurality of servers, where each of the servers includes a respective manager. As taught in Hokanson, server 132 includes a content manager

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142. Specifically, as taught in Hokanson, "[t]he content manager 142 optimally organizes content at various hierarchical levels within the storage hierarchy to achieve a desired cost of making the content available to the clients." (Hokanson, Col. 10, Lines 53 – 56, Emphasis added).

As such, even if Hokanson did teach distributing infrequently requested assets amongst a server's secondary partitions, as asserted by the Examiner, a system according to a combination of the teachings of Ueno and Hokanson (assuming that Ueno or Hokanson teaches partitioning servers and distributing assets amongst the server as in Appellants' invention, and to the extent that such combination is even possible) would merely include a central manager for routing content between servers, and respective local managers for moving content between levels of the respective hierarchies associated with their respective servers.

The movement, by a manager local to a server, of content from one hierarchical level of the server to another hierarchical level of the server, is simply not migrating video assets between storage partitions in response to a video asset request rate traversing a threshold rate where infrequently requested video assets are divided and selectively distributed amongst the secondary partitions of the respective plurality of servers, as taught in Appellants' invention. As such, Appellants respectfully maintain that Ueno and Hokanson, alone or in combination, fail to teach or suggest Appellants' Invention, as a whole.

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CONCLUSION

Appellants respectfully request that the Board reverse the rejections and pass the claims to allowance.

Respectfully submitted,

6/16/06

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